

NICHOLAS A. TRUTANICH
United States Attorney
District of Nevada
Nevada Bar #13644
BIANCA R. PUCCI
Assistant United States Attorney
501 Las Vegas Blvd. South, Suite 1100
Las Vegas, Nevada 89101
Phone: (702) 388-5080
Bianca.Pucci@usdoj.gov

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

UNITED STATES OF AMERICA,

Plaintiff,

VS.

BARRY ALLEN GABELMAN,

Defendant.

Case No. 2:20-mj-16-NJK

Stipulation to Continue Preliminary Hearing

IT IS HEREBY STIPULATED AND AGREED, by and between Nicholas A. Trutanich,

United States Attorney, and Bianca R. Pucci, Assistant United States Attorney, counsel for the United States of America, and Rene L. Valladares, Federal Public Defender, and Heidi A. Ojeda, Assistant Federal Public Defender, counsel for Barry Allen Gabelman, that the preliminary hearing currently scheduled February 2, 2020, be vacated and set to a date and time convenient for this court but no earlier than seven (7) days.

The Stipulation is entered into for the following reasons:

1. The additional time requested herein is not sought for purposes of delay, but to permit counsel for the government to determine if the case will be presented to the Grand Jury or if the case will proceed to preliminary hearing. This additional time is sought due to the

1 unforeseen circumstances of the Lloyd D. George Courthouse being closed with limited access
2 during the week of January 27, 2020.

3 2. The additional time requested herein is also sought to permit defendant time to
4 review discovery and conduct investigation in this case in order to determine whether there are
5 any issues that must be litigated prior to the case proceeding to preliminary hearing or
6 otherwise.

7 3. The defendant is incarcerated and does not object to the continuance.

8 4. The parties agree to the continuance.

9 5. The additional time requested herein is not sought for purposes of delay, but merely
10 to allow counsel for the government to effectively determine whether to proceed to Grand Jury
11 or preliminary hearing. It also is sought to allow counsel for the defendant sufficient time
12 within which to be able to effectively and complete investigation of the discovery materials
13 provided.

14 6. Denial of this request for continuance would waste limited judicial resources.

15 7. Additionally, denial of this request for continuance could result in a miscarriage of
16 justice. The additional time requested by this stipulation is excludable in computing the time
17 within which the preliminary hearing herein must commence pursuant to the Federal Rules of
18 Criminal Procedure 5.1(d), and the Speedy Trial Act, § 3161(h)(7)(A), considering the factors
19 under Title 18, United States Code §§ 3161(h)(7)(B)(i) and (iv).

20 ///

21 ///

22 ///

23 ///

24 ///

1 This is the First Stipulation to continue filed herein.

2

3 DATED: January 31, 2020

4

5 RENE L. VALLADARES
6 Federal Public Defender

NICHOLAS A. TRUTANICH
United States Attorney

7

/s/ Heidi A. Ojeda

/s/ Bianca R. Pucci

8

By _____

By _____

9

HEIDI A. OJEDA
10 Assistant Federal Public Defender
Attorney for Barry Allen Gabelman

BIANCA R. PUCCI
Assistant United States Attorney

11

12

13

14

15

16

17

18

19

20

21

22

23

24

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

UNITED STATES OF AMERICA,

Plaintiff,

Case No. 2:20-mj-16-NJK

VS.

Order

BARRY ALLEN GABELMAN,

Defendant.

FINDINGS OF FACT

Based on the pending Stipulation of counsel, and good cause appearing therefore, the Court finds that:

1. Counsel for the government needs additional time to determine whether the case will be present to the Grand Jury or if the case will proceed to preliminary hearing. This additional time is sought due to the unforeseen circumstances of the Lloyd D. George Courthouse being closed with limited access during the week of January 27, 2020.

2. Counsel for the defendant needs additional time to review discovery and conduct investigation in this case in order to determine whether there are any issues that must be litigated prior to the case proceeding to preliminary hearing or otherwise.

2. The defendant does not object to the continuance.

3. The parties agree to the continuance.

4. The additional time requested herein is not sought for purposes of delay.

Denial of this request for continuance would waste limited judicial resources, and deny counsel for the defendant sufficient time to effectively represent the defendant.

5. Additionally, denial of this request for continuance could result in a miscarriage of justice. The additional time requested by this Stipulation is excusable in computing the time

within which the trial herein must commence pursuant to the Federal Rules of Criminal Procedure 5.1(d), and the Speedy Trial Act, Title 18, United States Code, Section 3161(h)(7)(A), considering the factors under Title 18, United States Code, Section 3161(h)(7)(B)(i), (iv).

CONCLUSIONS OF LAW

The ends of justice served by granting said continuance outweigh the best interest of the public and the defendant in a speedy trial, since the failure to grant said continuance would be likely to result in a miscarriage of justice.

The continuance sought herein is excusable under the Federal Rules of Criminal Procedure 5.1(d), and the Speedy Trial Act, title 18, United States Code, Section § 3161(h)(7)(A), when the considering the factors under Title 18, United States Code, § 3161(h)(7)(B)(i), (iv).

ORDER

IT IS THEREFORE ORDERED that the parties' stipulation is GRANTED. Docket No.

14. The preliminary hearing in the matter is continued to February 11, 2020, at 4:00 p.m.

DATED this 31st day of January, 2020.

UNITED STATES MAGISTRATE JUDGE